IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.14458 OF 2004
AND
WRIT PETITIION NO.16021 OF 2004

IN W.P.NO.14458 OF 2004:
Between:
M/s. East Coast Constructions & Industries Limited, Reg. Office No.4 , Moore Street, Chennai –600 006, Rep. by its authorized agent, Mr. C. Chandrasekhar Reddy S/o. Venkata Subba Reddy , R/o.Ground floor, Dwaraka Nivas, 6-3-662/6, Jaffar Ali Bagh, Somajiguda, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Engineer-in-Chief, (Adm. Wing) I & CAD Department, Erramanzil, Hyderabad.
2 The Superintending Engineer, Irrigation & CAD Department, Irrigation Circle, R.S. Road, Kadapa - 516 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus declaring the action of the 1st Respondent in not issuing the renewed registration certificate pursuant to the application made by the petitioner on 12-8-2004 , as illegal, arbitrary and in violation of Article 14, 16 and 19 of the Constitution of India and consequently direct the Respondents to allow the Petitioner Company to participate in the Tender process in pursuance of the tender notification No. 02SE/204-05 for the construction of Spill way from Ch. 209.500 mts to Ch. 280.000 mts of Veligallu Reservoir Project near Veligallu (V), Galiveedu (M), Cuddapah District, dt. 4-8-2004, without insisting on the renewal of the Registration certificate.

Counsel for the Petitioner : MR.P.RADAIVE REDDY

Counsel for the Respondents : GP FOR IRRIGATION & COMM AREA DEV.

IN W.P.NO.16021 OF 2004:

Between:

M/s.East Coast Constructions & Industries Limited, Regd.Office No.4, Moore Street, Chennai-600 006, rep., by its Authorised Agent Mr.C.Chandra Sekhar Reddy, s/o Venkata Subba Reddy, r/o Ground Floor, Dwaraka Nivas, 6-3-662/6, Jaffar Ali Bagh, Somajiguda, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep., by its Engineer-in-Chief (Adm.Wing), I & CAD Department, Erramanzil, Hyderabad.
2 The Superintending Engineer, Irrigation & CAD Department, Irrigation Circle, R.S.Road, Kadapa-516 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus; i) declaring the action of the respondent authorities in not opening the price bid of the petitioner for the work in pursuance of the e' procurement Notice No.2SE/2004-05, dated 4-8-2004, as arbitrary, illegal, violative of the Articles 14, 21 and 300A of the Constitution of India and consequently; ii) direct the respondent authorities to award the contract to the petitioner in pursuance of the price bid of the petitioner on merits in the event of the petitioner quotation being the lowest in the 'e' procurement Notice No.2SE/2004-05, dated 4-8-2004.

Counsel for the Petitioner : MR.A.SUDERSHAN REDDY

Counsel for the Respondents : GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

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THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.14458 OF 2004
AND
WRIT PETITIION NO.16021 OF 2004

COMMON ORDER :

The Superintending Engineer, Irrigation & C.A.D. Department, Irrigation Circle, Kadapa issued tender notice No.2SE/2004-05, dt. 04-08-2004 through e-procurement platform inviting tenders for the work namely construction of spillway from Ch.209.5 m to Ch.280 m of Veligallu Reservoir Project, near Veligallu Village, Galiveedu Mandal of Kadapa District. As per the tender schedule, the last date for receipt of the tenders was 16-08-2004 and the technical bids and price bids were scheduled to be opened on 18-08-2004 and 21-08-2004 respectively. As per tender conditions, only the Special Class Civil (specialization in bridges and other structures) Contractors as per G.O.Ms.No.521, dt.10-12-1984, or Special Class (civil) Contractors as per G.O.Ms.No.178, dt. 27-09-1997 or G.O.Ms.No. 132, dt. 11-08-1998 or Special Class Contractors as per G.O.Ms.No.94, dt. 1-07-2003 and registered in Irrigation and C.A.D. Department are eligible to participate.

The petitioner – M/s. Eastcoast Constructions and Industries Limited was registered as a Special Class Contractor to execute the works of any magnitude and specialization in Earth Work and Canal Lining. The said registration dated 06-04-1999 was valid for a period of five years i.e., upto 06-04-2004. The petitioner company was also registered as a Special Class Contractor on 16-08-1999 to execute the works of any magnitude and specialization in Bridges and other structures which was valid for a period of five years i.e., upto 16-08-2004. Both the said registrations were granted in terms of

G.O.Ms.No.521, Irrigation (PW) Department, dated 10-12-1984 which was subsequently superseded under G.O.Ms.No.94, Irrigation & C.A.D. (PW-CAD) Department, dated 01-07-2003 under which comprehensive orders were issued with regard to tender procedures and registration of contractors. It is to be noted that as per clause (1) (h) of Annexure-II to G.O.Ms.No.94, dt. 1-7-2003 the registration of contractors in each specialization in Special Class and Class-I has been dispensed with. The petitioner claims that in terms of G.O.Ms.No.94, dt. 01-07-2003, the petitioner had submitted its application on 12-08-2004 for renewal of registration through the internet. Since the same was not being acted upon, the petitioner also submitted an application dated 12-08-2004 to the Chief Engineer, Minor Irrigation, with all the required documents seeking renewal and on the same day filed W.P.No.14458 of 2004 expressing an apprehension that since its application for renewal of registration was pending with the competent authority, though its registration certificate was valid upto 16-08-2004, the 2nd respondent may not accept its tender when the technical bids are opened on 18-08-2004.

In pursuance of the interim orders dated 16-08-2004 granted by this Court, the technical bids of the petitioner were accepted and opened by the 2nd respondent subject to further orders in the writ petition. There was also a direction by this Court that the 1st respondent shall consider the application of the petitioner, dated 12-08-2004 seeking renewal of registration and to pass appropriate orders in accordance with law. In pursuance thereof, the Engineer-in-Chief (Admission Wing), Irrigation & C.A.D. Department, Hyderabad issued proceedings dated 30-08-2004 registering the petitioner as Special Class Contractor in terms of G.O.Ms.No.94, dt. 1-7-2003, which is valid upto five years.

The above facts are not in dispute. However, the grievance of the petitioner is that the respondent authorities have not opened the price bid of the petitioner in spite of the interim order of this Court dated 20-08-

2004 and that they have been proceeding to finalise the tenders. In the circumstances, the petitioner filed W.P.No.16021 of 2004 contending inter alia that since it has requisite qualifications as provided in the special conditions annexed to the tender notification and since it has already been issued the certificate of registration as Special Class Contractor on 30-08-2004, there is no justifiable reason for not opening its price bid.

I have heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents.

It is to be noted that admittedly the two registrations of the petitioner expired on 06-04-2004 and 16-08-2004. As a matter of fact, as per G.O.Ms.No.521, dt. 10-12-1984 in terms of which the said two registrations were granted, the petitioner was required to submit the applications for renewal of registration six months before the date of validity of the registration. Admittedly, the petitioner did not do so and made an application for renewal on 12-08-2004. The petitioner's contention is that by virtue of G.O.Ms.No.94, dt. 1-7-2003 registration in each specialization is dispensed with and therefore the renewal sought by it just before the expiry of the registration dated 16-08-1999 is valid and ought to have been considered by the 1st respondent without any loss of time. The further contention is that since the application for renewal was pending with the 1st respondent, it cannot be said that there were any lapses on the part of the petitioner and therefore the respondents are not justified in not considering the tender of the petitioner on the ground of want of registration.

On behalf of the respondents, a counter-affidavit has been filed stating that the registration dated 16-08-1999 which expired on 16-08-2004 was in respect of Bituminous Asphaltic Highway work and the same is not valid for civil works. The registration of the petitioner so far as the civil in Earth Work and Canal Lining and Bridges and other structures was valid only upto 05-04-2004. Thus, by the date of

impugned tender notice dated 04-08-2004, the petitioner had no valid registration. So far as the allegation that the application of the petitioner for renewal of the registration was not considered, it was stated that since the petitioner submitted its application on 12-08-2004 instead of 15-04-2004, a fresh registration has to be considered only after submission of the relevant documents. Thus, the specific case of the respondents is that the petitioner's registration in civil in Earth Work and Canal Lining and Bridges and other structures has expired on 05-04-2004 and thereafter the petitioner's firm cannot be called as a 'registered firm', and therefore the question of considering its tender does not arise.

The learned Counsel for the petitioner did not dispute the fact that the registration of the petitioner dated 06-04-1999 with specialization in Earth Work and Canal Lining and Bridges and other structures expired on 05-04-2004 itself. However, his contention is that as per Rule 1 (h) of Rules for registration of the contractors prescribed under Annexure-II to G.O.Ms.No.94, dated 1-7-2003 since the registration in each specialization is dispensed with, the petitioner is entitled to submit the tenders on the basis of the registration dated 16-08-1999 which was valid upto 16-08-2004. I am unable to accept the said contention. No doubt, Rule 1(h) of Rules provides that the specialization in Special Class and Class-I is dispensed with and that in future, registration under the said categories will be done without any specialisation, however, it is further added that the existing contractors of special class and class-I will be eligible for all categories of works unless otherwise specified in the tender process with regard to specialization require. Admittedly, the petitioner is an existing contractor as on the date of G.O.Ms.No.94, dt. 1-7-2003. He did not obtain any registration under the new Rules by the date of the impugned tender notification dated 04-08-2004. The petitioner has been granted a registration under the new rules only on 30-08-2004 on the basis of which probably he is entitled to tender for any category of specialisation. It is to be noted that it is a fresh

registration and not a renewal of registration possessed by the petitioner under G.O.Ms.No.521, dated 10-12-1984. The tender submitted by the petitioner on 12-08-2004 on the basis of the registration dated 16-08-1999 in respect of Bituminous Asphaltic Highway work though valid as on the date of the tender notification, has been rightly rejected by the respondents since the specialization required under the impugned notification was in respect of Civil and Bridges and other structures. The petitioner who made an application for renewal long after the expiry of its registration with specialization in Civil Works cannot take advantage of Rule 1(h) of the Rules. Thus, it is clear that the petitioner who was not possessing a valid registration for the works specified under the tender notification from 7-4-2004 to 30-8-2004 i.e., as on the date of the tender notification and as on the date of submission of the tender and even on the date of opening of the bids is not qualified and the respondents cannot be found fault with for not considering its price bid.

In the circumstances, the writ petitions are devoid of any merit and accordingly both the writ petitions are dismissed. No costs.

Needless to mention that the interim orders granted pending the writ petitions shall stand vacated.

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14th September, 2004.

Note:- Office is directed to put up a copy of this order in W.P.No.16021/2004.

(B/O)

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To

1 The Engineer-in-chief, (Adm.Wing) Government of Andhra Pradesh, I & CAD Department, Erramanzil, Hyderabad.

2 The Superintending Engineer, Irrigation & CAD Department, Irrigation Circle, R.S.Road, Kadapa-516 001.

3 .2CCs to G.P. for Irrigation & Command Area Development, High Court of A.P. Buildings, Hyderabad. (OUT).

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